

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO ALL CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**PRETRIAL ORDER # 109
(SECOND AMENDED DOCKET CONTROL ORDER ON
SECOND ROUND OF BELLWETHERS – *Huskey and Edwards*)**

By PTO # 56, I chose the first 4 of 6 bellwether cases in this MDL, and by PTO # 59 I amended the order of the cases to be tried. I now amend PTO # 75 (First Amended Docket Control Order on Second Round of Bellwethers – *Huskey and Edwards*) as follows:

1. *Plaintiffs' Expert Reports.* Plaintiffs shall serve expert reports by **February 21, 2014.**
2. *Defendants' Expert Reports/Rebuttal Expert Reports.* Defendants shall serve expert reports by **March 21, 2014.** Plaintiffs shall serve any rebuttal expert reports by **March 28, 2014.**
3. *Expert Discovery.* Expert Discovery for the *Huskey and Edwards* bellwether case, including the deposition of any rebuttal experts, shall be completed by **April 11, 2014.**
4. *Case-Specific Discovery.* Discovery on the *Huskey and Edwards* bellwether case shall be completed by **March 31, 2014.**

5. *Motion Practice.*

a. Daubert Motions and Non-Daubert based Dispositive Motions shall be filed by **April 18, 2014**. Response briefs shall be filed by **April 25, 2014**. Reply briefs shall be filed by **May 1, 2014**.

b. Motions in limine shall be filed by **May 12, 2014**. Response briefs shall be filed by **May 19, 2014**. Motions in Limine are limited to 3 pages each, responses are limited to 2 pages each.

c. Daubert based dispositive motions shall be filed by **May 27, 2014**. Response briefs shall be filed by **June 3, 2014**.

d. Dates for summary judgment and *Daubert* hearings, if any, will be set at an upcoming status conference.

e. Local Rule of Civil Procedure 7.1(a)(2) applies regarding the page limits on memoranda in support of dispositive motions as well as responses and replies.

The court will not be inclined to grant motions to exceed the page limit. The court requests that the parties abide by Local Civil Rule 7.1(a)(5) regarding courtesy copies.

f. The parties may file placeholder exhibits for documents with potential sealing issues. However, within five days of filing, the party who filed the at-issue exhibits must either file the appropriate motion to seal or file a motion with the at-issue exhibits (dedesignated or redacted) attached asking that the court direct the Clerk to replace the placeholder exhibits with the attached exhibits.

6. *Pretrial and Final Settlement Conferences.* The Court shall conduct a pretrial conference on **May 27, 2014, at 2:00 p.m.** and will notify the parties as to the date of a final settlement conference.

7. *Designation of counsel:* By **May 15, 2014**, Plaintiffs shall designate counsel authorized to meet and confer with Defendants' counsel, and to bind Plaintiffs by his/her agreement, on matters related to the conduct of the trial including the resolution of deposition designations.

8. *Deposition Designations.* Deposition designations shall be filed by **May 20, 2014**. The designations shall specifically identify exhibits to be offered through the deposition testimony. Any objections to an opposing party's designations and the accompanying exhibits, and any counterdesignations and accompanying exhibits, shall be filed by **May 30, 2014**. Any objections to the counter-designations and exhibits, and any counter-designations to an opposing party's counterdesignations, shall be filed by **June 6, 2014**. **No additional testimony may be designated after June 6, 2014 absent leave of Court.** The parties shall meet and confer no later than **June 13, 2014** to resolve objections to testimony and exhibits and to resolve any proposed redactions to exhibits. Any unresolved objections shall be presented to the Court for resolution at a hearing to be held **June 17, 2014**. The parties consent to the determination of the objections by the Magistrate Judge.

9. *Exhibit and Witness Lists.* The parties will exchange exhibit and witness lists by **May 27, 2014**. Objections to exhibits shall be exchanged by **June 10, 2014**.

10. The parties shall file a proposed integrated pretrial order pursuant to Fed. R. Civ. P. 16 three days prior to the pretrial conference. The proposed integrated pretrial

order, signed by all counsel and unrepresented parties, shall set forth the matters listed in Local Civil Rule 16.7(b).

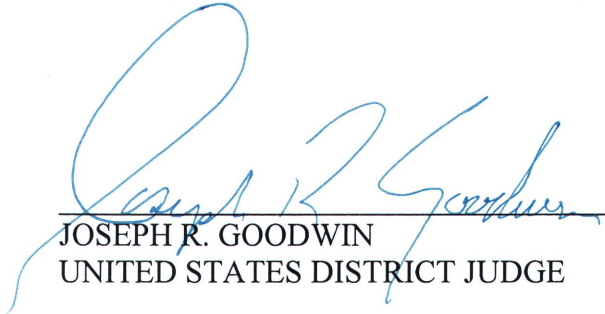
11. The parties shall file proposed jury instructions in charge form on substantive theories of recovery or defense, on damages and on evidentiary matters peculiar to the case, and special interrogatories, if any be appropriate to the case, along with a proposed verdict form on **June 6, 2014**. The court requests that the parties email the proposed jury instructions to the court's law clerk in Word format.

12. *Trial*. The *Huskey* trial as identified in PTO # 59 shall commence on **June 23, 2014 at 8:30 a.m.** In the event the *Huskey* case has settled or is otherwise not ready for trial, the *Edwards* case will proceed to trial instead.

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2327 and **in the following cases:** 2:12-cv-05201 and 2:12-cv-09972 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:14-cv-12261. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by

the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsc.uscourts.gov.

ENTER: March 14, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE